

REMARKS

Reconsideration of the present application is respectfully requested. Claims 9-16 were previously canceled. In this amendment, claims 1-8 have been canceled, and claims 17, 24 and 50 have been amended.

Interview Summary

Applicants appreciate the Examiner's time and courtesy during the telephone interview conducted with Applicants' representative (the undersigned) on 7/11/2006. Applicants' representative explained the differences between Applicants' claims and the cited art, particularly regarding independent claims 33, 39 and 41. Agreement was not reached, however, as the Examiner indicated that further considerations of Applicants' comments was necessary.

Status of Claims

Claims 33-38 stand rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by U.S. Patent no. 6,609,113 of O'Leary et al. ("O'Leary"). Claims 17-32, 39-45 and 50-56 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable based on O'Leary.

Overview of the Invention

Before discussing the differences between the cited art and the present invention, an overview of the invention may be helpful. The present invention provides an innovative modality of credit card payment processing, that can benefit all parties involved in a transaction, particularly when the consumer has a wireless device such as a cell phone and is present at a merchant's place of business. The invention enables a wireless telecommunications network operator ("telecommunications carrier") to validate the identities of credit card users who use wireless devices such as cellular telephones (and who therefore subscribe to the carrier's

service), and to ensure that the credit card users approve the transactions and receive receipts for the transactions. In certain embodiments, this is done by providing a commerce platform, which implements certain key operations associated with a credit card transaction involving a mobile user. The commerce platform is implemented as one or more computers operated by a single business entity, e.g., the telecommunications carrier.

This is a significant and advantageous departure from known prior art methods of validating credit card transactions. The invention is advantageous in that it can help to reduce fraud risk while being capable of implementation using existing communications and computing hardware infrastructure and without the necessity to retrain merchants or consumers to a different payment paradigm.

Discussion of Rejections

Claims 17, 24 and 50

Claim 17 recites:

17. (Currently amended) A method of facilitating a credit card transaction between a consumer using a wireless communication device and a provider of a product or service, the method comprising:

in a commerce platform implemented as one or more computer systems **operated by a single business entity,**

storing personal information of the consumer, including a credit card number of a credit card issued to the consumer;

receiving information for requesting the transaction from a remote entity;

sending information on the transaction to the wireless communication device;

receiving a signal from the wireless communication device indicating acceptance of the transaction;

receiving a personal identification code from the wireless communication device;

using the received personal identification code and the stored personal information on the consumer to verify the identity of the consumer, and

in response to verifying the identity of the consumer, sending to a remote entity other than said single business entity a transaction request including information on the transaction and the credit card number, for initiation of a transaction approval process. (Emphasis added.)

Claims 24 and 50 include similar limitations to those in claim 17.

O'Leary neither discloses nor suggests such a method. In particular, O'Leary does not disclose or suggest such a method in which all of the recited steps are performed *in a commerce platform operated by a single business entity*. The single business entity may be the telecommunications carrier, for example, although that does not have to be the case.

The Office Action discusses claim 17 on pages 5-6 and cites various sections of O'Leary as disclosing the recited claim steps. However, assuming just for the sake of argument that all of the steps in claim 17 are in some form disclosed in O'Leary, those steps are performed by computers and/or other devices operated by *various different entities, not by a commerce platform operated by a single business entity* as in the present invention. This is particularly true of (at least) the disclosure in O'Leary which the Examiner cites for the last three steps of claim 17, i.e., "receiving a personal identification code . . .," "using the received personal identification code . . .", and "in response to verifying the identity of the consumer, . . .". For example, regarding these claim limitations the Examiner cites O'Leary at (*inter alia*) col. 10, lines 17-21, which refer to *user* actions, actions performed by the *consumer's bank*, as well as actions performed by the *merchant's bank*; and col. 15, lines 33-39 which refer to actions performed by the *PPP enhanced wallet 215*.

There is no single business entity in O'Leary performing *all* of the actions recited in claim 17, assuming *arguendo* all of those actions are even disclosed in O'Leary. For at least this reason, therefore, claim 17 and all claims which depend on it are patentable over the cited art.

Independent claims 24 and 50 include limitations similar to those emphasized above in claim 17 and are, therefore, patentable over the cited art for similar reasons (at least).

In addition, claim 17 (as amended) recites, "*in response to verifying the identity of the consumer*, sending to a remote entity other than said single business entity a transaction

request including information on the transaction and the credit card number, for initiation of a transaction approval process.” (Emphasis added.) Independent claims 24 and 50 also include similar limitations. The Examiner cites O’Leary at col. 10, lines 23-30 and col. 16, lines 18-32 as disclosing this functionality (Office Action, p. 6). Neither of those sections, however, refers to verifying the identity of the consumer or actions that are performed in response thereto. O’Leary does elsewhere discuss verifying the identity of the consumer (e.g., at col. 15, lines 33-39), however, there is no disclosure or suggestion anywhere in O’Leary of, *in response to* verifying the identity of the consumer, sending to a remote entity other than said single business entity a transaction request including information on the transaction and the credit card number, for initiation of a transaction approval process, as required by claims 17, 24 and 50. Therefore, the rejection of claims 17, 24 and 50 is improper for this additional reason.

Furthermore, it is noted that the rejection of claims 17, 24 and 50 does not follow a proper obviousness analysis as required by *Graham v. John Deere*, which must include *identifying the differences* between the closest prior art and the claims at issue. 383 U.S. 1, 148 USPQ 459 (1966). In particular, the Examiner states what limitations of Applicants’ claims O’Leary allegedly discloses but fails to acknowledge which limitations of Applicants’ claims O’Leary *does not* disclose (the Examiner has implicitly admitted that some of the claim limitations are not disclosed by O’Leary, since the rejection is not under section 102). Therefore, the rejection of claims 17, 24 and 50 is improper for this additional reason.

Regarding the remaining pending independent claims, Applicants respectfully maintain the arguments set forth on pages 4-12 of their last response, filed on 1/20/2006; those arguments are incorporated herein by reference, and the Examiner is requested to carefully reconsider *all* of those arguments in view of the following additional comments. To avoid

unnecessary verbosity, Applicants' remarks henceforth in this paper shall be mainly limited to addressing the Examiner's responses to Applicants' previous arguments.

Claim 33

Claim 33 recites:

33. A method of facilitating a credit card transaction between a consumer and a provider of a product or service, the method comprising:
receiving information associated with the transaction from a remote terminal operated by the provider;
determining whether the transaction is of a predetermined type;
if the transaction is determined *not* to be of the predetermined type, then initiating a transaction approval process by transmitting at least a portion of the received information to a clearing network for approval of the transaction;
if the transaction is determined to be of the predetermined type, then transmitting the received information to a remote validation entity *other than the clearing network* over a secure channel, to enable validation of the transaction by the remote validation entity, and upon receiving an indication that the transaction has been validated by the remote validation entity, initiating a transaction approval process by transmitting at least a portion of the information to the clearing network for approval of the transaction. (Emphasis added.)

O'Leary does not disclose or suggest a method such as recited in claim 33, particularly the *combination* of operations emphasized above in bold. Applicants respectfully maintain the arguments set forth on pages 4-6 of their last response, filed on 1/20/2006; those arguments are incorporated herein by reference. The Examiner is requested to carefully reconsider those arguments in view of the following additional comments.

The only response to Applicants' arguments which Applicants find in the present Office Action is on page 26 of the Office Action, where the Examiner states:

O'Leary discloses predetermined types of transactions and the steps which are to be followed based upon the type of action identified. O'Leary discloses transaction both within the trusted domain and by another validation entity (column 10, lines 65- column 11, line 3; column 27, lines 16-30) as well as various predetermined types of transactions (column 8, lines 40-52; column 9,

lines 25-30; column 10, lines 15-21 and lines 59-64) such as debit, credit, and to various institutions.

"Clearing networks" and "validation entities other than the clearing network" include the various institutions as noted in the paragraph above (column 10, lines 65-column 11, line 3; column 27, lines 16-30).

Regarding the Examiner's first statement quoted above, Applicants respectfully submit that the disclosure in O'Leary which the Examiner cites does not equate to or even address the *specific* claim limitations of claim 33 which Applicants argued. Consequently, even if the Examiner's statement is assumed (*arguendo*) to be completely correct, that still does not establish that O'Leary discloses or suggests the method of claim 33, nor does it rebut Applicants' arguments.

The second paragraph of the Examiner's remarks quoted above appears to be indirectly responsive to Applicants' previous request that the Examiner *specifically identify* in the next Office Action *what entity or entities* in O'Leary the Examiner considers to be the "clearing network" and the "validation entity other than the clearing network", and to further clarify where in O'Leary the recited combination of operations is disclosed (see last response, pages 5-6). However, Applicants respectfully submit that the Examiner appears to have sidestepped the issue, i.e., the Examiner's response does not specifically identify any entity or entities in O'Leary that can be considered to be the "clearing network" and the "validation entity other than the clearing network" which perform their respective actions as recited in claim 33. The Examiner's response amounts to nothing more than a general, unsupported allegation that these entities are disclosed in O'Leary in the manner claimed. Applicants respectfully submit that the lack of specificity in the Examiner's response is telling, in that if O'Leary did in fact disclose these different entities performing the recited actions, it should have been easy to specifically point out *exactly* where in O'Leary they are disclosed and *exactly* where in O'Leary they are disclosed as performing the respective actions recited in claim 33.

Hence, Applicants respectfully maintain the arguments regarding claim 33 submitted in their last response.

Claim 39

Claim 39 recites:

39. A method of a telecommunications carrier facilitating a credit card transaction between a consumer using a wireless communication device and a provider of a product or service, the method comprising:

- providing telecommunications services to users of a plurality of wireless communications devices on a wireless communications network, including storing user account information for each of the plurality of users, the plurality of users including said consumer;
- storing personal information of the consumer in a database within a trusted domain, the trusted domain excluding the consumer and the provider, the personal information including a credit card number of a credit card issued to the consumer;
- receiving information for requesting the transaction from a remote entity, the information for requesting the transaction including a unique identifier of the wireless communication device, an amount of the transaction, and a provider identifier;
- storing the information for requesting the transaction;
- identifying the wireless communication device and an associated user account based on the unique identifier;
- verifying that the wireless communication device is in geographic proximity to the provider;**
- sending information on the transaction to the wireless communication device via a wireless network;
- receiving a signal from the wireless communication device indicating acceptance of the transaction by the consumer;
- receiving a personal identification code from the wireless communication device via the wireless communications network;
- using the received personal identification code and the stored personal information on the consumer to verify the identity of the consumer, and
- if the identity of the consumer is verified, sending to a remote entity a transaction request including information on the transaction and the credit card number, for initiation of a transaction approval process, wherein the credit card information of the consumer is not permitted to pass outside the trusted domain;
- receiving a signal indicating the transaction has been approved; and
- in response to receiving the signal indicating the transaction has been approved,
 - storing a digital receipt of the transaction, and
 - sending a signal to the wireless communication device over the wireless communication network to cause the wireless communication device to output a message confirming completion of the transaction.

O'Leary does not disclose or suggest a method such as recited in claim 39, particularly the operations emphasized above in bold. Applicants respectfully maintain the arguments set forth on pages 8-9 of their last response, filed on 1/20/2006; those arguments are incorporated herein by reference. The Examiner is requested to carefully reconsider those arguments in view of the following additional comments.

Regarding the limitation, "verifying that the wireless communication device is in geographic proximity to the provider," the only response to Applicants' arguments which Applicants find in the present Office Action is on pages 13-14 of the Office Action, where the Examiner states:

O'Leary does not teach that the method verifies that the wireless communications device is in geographic proximity to the provider. However, O'Leary does disclose that the communication device is operable either in a virtual or physical market place and that payment can take place virtually anywhere (column 4, lines 38-46 and column 6, lines 61-column 7, lines to). It would be obvious to one of ordinary skill in the art that **the communication system as disclosed by O'Leary would process transactions both when the devices within close geographic proximity to the provider and when not**. The **motivation** would be to provide commerce services in both Internet as well as brick-and-mortar environment. (Emphasis added.)

First, O'Leary does *not* disclose or suggest *any mobile device being involved in the transaction* in those scenarios where a consumer is physically present at a merchant's business location, in contrast with claim 39. Rather, O'Leary discloses that the consumer can use an *ATM or card reader* of the merchant to carry out his part of the transaction when the consumer is physically present at the merchant's business location (see col. 13, lines 14-18). Therefore, the rationale for the rejection lacks merit.

Second, *if* it would be obvious that the system of O'Leary would process transactions in both the Internet and brick-and-mortar environment, as the Examiner states, then there would be *no reason* in the system and technique of O'Leary to *verify* that a mobile device is in proximity to the merchant, much less for the *wireless telecommunications carrier* to do such verification, as recited in claim 39.

Third, Applicants respectfully submit that claim 39 does not even recite, as the Examiner puts it, “process[ing] transactions both when the device is within close geographic proximity to the provider and when not” (Office Action, page 14). Rather, claim 39 requires the telecommunications carrier *verifying* that the wireless communication device *is in geographic proximity to the provider*. This is done to provide an additional layer of protection against attempted fraudulent transactions. There is no disclosure or suggestion of this functionality in O’Leary, much less that is done by the telecommunications carrier.

Therefore, Applicants respectfully maintain their arguments regarding claim 39.

Claim 41

Claim 41 recites:

41. A method of facilitating a credit card transaction between a consumer and a provider of a product or service, the method comprising:

- providing a computer-implemented portal, through which the consumer can remotely access a commerce application;
- storing personal information of the consumer in a database within a trusted domain, the trusted domain excluding the consumer and the provider, the personal information including a credit card number of a credit card issued to the consumer;

- receiving, from a remote entity within the trusted domain, information for requesting the transaction, including an amount of the transaction and a provider identifier;**

- storing the information for requesting the transaction;
- generating a session identifier corresponding to the transaction in response to receiving the information for requesting the transaction;
- associating the session identifier with the stored information for requesting the transaction;

- sending the session identifier to a remote entity, for subsequent communication to the consumer,**

- receiving a confidential personal identification code and **a user-input session identifier** from a wireless communication device via a wireless communications network;

- using the received personal identification code, the user-input session identifier, and the stored personal information of the consumer **to attempt to validate the transaction**, including

- using the personal identification code and the stored personal information to verify the identity of the consumer, and

- using the user-input session identifier to look up the stored information for requesting the transaction and to associate the consumer with the transaction;**

if the transaction is successfully validated, then sending information on the transaction to the wireless communication device over the wireless network, to cause the wireless communication device to output a prompt to accept or decline the transaction;

receiving a signal from the wireless communication device indicating acceptance of the transaction;

in response to receiving the signal indicating acceptance of the transaction, sending to the remote entity a transaction request including information on the transaction and the credit card number, for initiation of a transaction approval process by a clearing network, without sending the credit card information outside the trusted domain;

receiving a signal indicating the transaction has been approved by the clearing network; and

in response to receiving the signal indicating the transaction has been approved by the clearing network,

storing a digital receipt of the transaction in association with the identity of the consumer; and

sending a signal to the wireless communication device over the wireless communication network to cause the wireless communication device to output a message confirming completion of the transaction. (Emphasis added.)

O'Leary does not disclose or suggest a method such as recited in claim 41, particularly the operations emphasized above in bold. Applicants respectfully maintain the arguments set forth on pages 10-13 of their last response, filed on 1/20/2006; those arguments are incorporated herein by reference. The Examiner is requested to carefully reconsider *all* of those arguments and to consider the following additional comments.

First, regarding the limitation, "receiving, from a remote entity within the trusted domain, information for requesting the transaction, including an amount of the transaction and a provider identifier," the Examiner cites O'Leary at column 15, line 66 -column 16, line 1 as allegedly disclosing this limitation (Office Action, p. 16). The cited section discloses that *the merchant site* 255 generates and transmits to the user a bill payment message containing information with respect to the prospective purchase. However, claim 41 requires that the merchant is *outside* the trusted domain ("the trusted domain *excluding* the consumer *and the provider*"). Therefore, the merchant in O'Leary cannot be the "remote entity" in the above-mentioned claim limitation, and the cited section of O'Leary does not satisfy that claim limitation. Nor is this limitation

disclosed or suggested elsewhere in O'Leary.

Second, as previously noted, claim 41 recites a *session identifier* input *by a user*, and more specifically:

receiving a confidential personal identification code and a ***user-input session identifier*** from a wireless communication device via a wireless communications network;
using the received personal identification code, the user-input session identifier, and the stored personal information of the consumer **to attempt to validate the transaction**, including
using the personal identification code and the stored personal information to verify the identity of the consumer, and
using the *user-input session identifier* to look up the stored information for requesting the transaction and to associate the consumer with the transaction; . . . (Emphasis added.)

Applicants previously argued (and maintain) that O'Leary does not disclose or suggest a user input session identifier, much less a user input session identifier being used in the manner recited in claim 41. The Examiner's response to Applicant's argument on this point is found in the Office Action at page 27, where the Examiner states:

O'Leary discloses session identifiers and user inputs in order to track transactions (column 5, lines 24-26; column 11, outlines 4-41 especially lines 36-41; column 13, lines 66-column 14, line 31). The transactions are stored by transaction number and the user has access to transactions which are stored in a database for later retrieval and viewing. This transaction number is stored in a database which can be accessed by individuals and organizations with access to the EFT network. In such a manner, transaction numbers can be shared as sharing of files in old and well-known [sic].

Applicants respectfully submit that a *transaction* is not the same as a *session*, and as such, a transaction identifier is not the same as a session identifier. Note that during electronic commerce, more than one transaction can be performed during a particular session. Therefore, O'Leary's disclosure of transaction identifiers is no suggestion of a session identifier, much less a user input session identifier being used in the particular manner recited in claim 41 (see limitations emphasized above in bold). Even if the transaction identifiers disclosed in O'Leary were considered to be session identifiers, they are not input *by a user*, in contrast with the

session identifier in claim 41, nor are they used in the manner recited in claim 41.

Again, the Examiner is requested to carefully reconsider *all* of the arguments submitted in Applicants' last response, which Applicants respectfully maintain.

Furthermore, the rejection of claim 41 does not follow a proper obviousness analysis as required by *Graham v. John Deere*, which must include *identifying the differences* between the closest prior art and the claims at issue. 383 U.S. 1, 148 USPQ 459 (1966). In particular, the Examiner states what limitations of claim 41 O'Leary allegedly discloses but fails to acknowledge which limitations of claim 41 O'Leary *does not* disclose (the Examiner has implicitly admitted that there are some such limitations, otherwise the rejection would have been under section 102). Therefore, the rejection of claim 41 is improper for this additional reason.

Conclusion

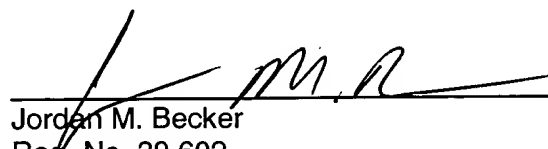
For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

If there are any additional charges, please charge Deposit Account No. 02-2666.

Respectfully submitted,

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